

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 1:09-cr-00154
)	
v.)	Honorable Robert Holmes Bell
)	
THOMAS GUSTAV WESTERLUND,)	
)	
Defendant.)	
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REPORT AND RECOMMENDATION

Pursuant to W.D. MICH. L.CR.R. 11.1, I conducted a plea hearing in the captioned case on November 5, 2009, after receiving the written consent of defendant and all counsel. At the hearing, defendant Thomas Gustav Westerlund entered a plea of guilty to Counts One through Four of the Indictment in exchange for the undertakings made by the government in the written plea agreement. In Counts One and Two of the Indictment, defendant is charged with sexually exploiting a minor in violation of 18 U.S.C. § 2251(a). In Count Three, defendant is charged with possessing images of minors engaged in sexually explicit conduct in violation of 18 U.S.C. § 2252(a)(4)(B). Count Four charges defendant with possessing child pornography in violation of 18 U.S.C. § 2252(a)(5)(B). On the basis of the record made at the hearing, I find that defendant is fully capable and competent to enter an informed plea; that the plea is made knowingly and with full understanding of each of the rights waived by defendant; that it is made voluntarily and free from any force, threats, or promises, apart from the promises in the plea agreement; that the defendant

understands the nature of the charge and penalties provided by law; and that the plea has a sufficient basis in fact.

I therefore recommend that defendant's plea of guilty to Counts One through Four of the Indictment be accepted, that the court adjudicate defendant guilty, and that the written plea agreement be considered for acceptance at the time of sentencing. Acceptance of the plea, adjudication of guilt, acceptance of the plea agreement, and imposition of sentence are specifically reserved for the district judge.

Date: November 6, 2009

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

NOTICE TO PARTIES

You have the right to de novo review of the foregoing findings by the district judge. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than ten days after the plea hearing. *See* W.D. MICH. L.CR.R. 11.1(d).